

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT PALMER

STATE OF ALASKA,)	
)	
Plaintiff,)	
)	
vs.)	
)	
SHYHEIM STEFAN CHAVIS,)	
)	
Defendant.)	Case No. 3PA-16-02231 CR
)	(Court of Appeals No. A-13158)
_____)	

ORDER SUPPRESSING DEFENDANT’S CONFESSIONS

Case history

This matter comes before this Court on remand from the Alaska Court of Appeals. Prior to a jury trial where the Defendant, Shyheim Stefan Chavis, was convicted of first-degree robbery and attempted first-degree murder, the Defendant filed a motion to suppress statements he had made to Alaska State Troopers, asserting that the statements were involuntary. This Court held an evidentiary hearing on the motion on June 29, 2017 and following the hearing found that the troopers did not threaten the Defendant and found the Defendant’s statements to be voluntary. The Court denied the Defendant’s motion to suppress and the Defendant’s statements were introduced at his trial. In a Memoranda Opinion issued on November 17, 2021, the Court of Appeals on review found that Trooper “Hayes made threats during the interrogation of Chavis, and that Chavis’s confessions must therefore be considered presumptively involuntary unless the State presents affirmative evidence indicating that Chavis’s will was not overborne.”¹

¹ *Chavis v. State*, Alaska App. Memorandum Opinion No. 6981 (November 17, 2021).

The Court of Appeals is specifically referencing the statements which Chavis made in the September 14, 2016 interview with troopers.² The Court of Appeals “remand[ed] this case to give the State an opportunity to present that affirmative evidence, and for the superior court to determine whether the State has rebutted the *Beavers* presumption.”³ The Court of Appeals instructed this Court to reconsider the denial of Chavis’s motion to suppress his confession and requested that this Court transmit to it its order on remand within 60 days from the distribution of the Memoranda Opinion.

Since the case was remanded to this Court, the Court held status hearings on January 13, 2022 and January 20, 2022. On January 20, 2022, the Court notified the Court of Appeals through a *Second Order on Remand* that the parties had requested until February 3, 2022 to brief the issues and provide the Court with the taped recordings at issue. The Court said that it planned to issue written findings no later than February 17, 2022. On January 21, 2022, the Court of Appeals extended the deadline for this Court to file its written findings to February 17, 2022.

Applicable law

As explained by the Alaska Supreme Court in *Ladd v. State*, “A confession is not admissible into evidence unless it is voluntary.”⁴ Furthermore, “In determining whether a confession is the product of a free will or was the product of a mind overborne by coercion the

² The Alaska State Troopers interviewed the Defendant on September 9, 2016 and September 14, 2016. Important to note is that the Alaska Court of Appeals found that even though the Defendant’s pleadings in this Court had “cited only the first interview and attached a transcript only of the first interview,” both interviews on the issue of threats were preserved for appeal. The Court of Appeals explained that “the State submitted audio recordings of both interviews to the superior court, and when the court issued its ruling, it explained that it had reviewed both interviews and concluded that ‘the officers never threatened, deprived, or mistreated Chavis at *any* point.’ (Emphasis added.)”.

³ *Id.*

⁴ *Ladd v. State*, 568 P.2d 960, 967 (Alaska 1977).

totality of circumstances surrounding the confession must be considered.”⁵ Furthermore, “The prosecution must prove the voluntariness of the confession by a preponderance of the evidence.”⁶ But as the Court of Appeals explained in its Memorandum Opinion in this case, “. . . although the burden is always on the prosecution to prove that a defendant’s statements were voluntary, *Beavers* adopted a heightened presumption of involuntariness when the statements at issue were made in response to police threats.”⁷ In *Beavers v. State*, the Alaska Supreme Court explained that “[t]hreat-induced confessions should be considered presumptively involuntary absent evidence affirmatively indicating that the suspect’s will was not overcome by the threats.”⁸ As the Alaska Courts of Appeals has found that Trooper Hayes made threats to the Defendant while interrogating him, the question now before this Court under *Beavers* is whether there is evidence affirmatively indicating that the Defendant’s will was not overcome by the threats.⁹ If this Court does not find there to be affirmative evidence indicating that the Defendant’s will was not overcome by the threats, then the Defendant’s confessions in the second interview must be suppressed. This court notes that there is limited Alaska caselaw analyzing the specific issue before the Court and therefore examples of what demonstrates evidence affirmatively indicating a suspect’s will was not overcome by threats is sparse.

Lack of evidence affirmatively indicating the Defendant’s will was not overcome

This Court having reviewed the parties’ briefs, the written transcripts of the two interviews, the audio recordings of the interviews, as well as the relevant caselaw, finds that the

⁵ *Id.* (citing to *Schade v. State*, 512 P.2d 907, 916-17 (Alaska 1973)).

⁶ *Beavers v. State*, 998 P.2d 1040, 1044 (Alaska 2000) (citing *Sprague v. State*, 590 P.2d 410, 413 (Alaska 1979).

⁷ *Chavis v. State*, Alaska App. Memorandum Opinion No. 6981 (November 17, 2021).

⁸ *Beavers v. State*, 998 P.2d 1040, 1048 (Alaska 2000).

⁹ See *Chavis v. State*, Alaska App. Memorandum Opinion No. 6981 (November 17, 2021).

presumption that the confession was involuntary has not been overcome. There is a lack of evidence affirmatively indicating that the Defendant's will was not overcome following Trooper Hayes threats toward the Defendant during the interrogation on September 14, 2016.

Starting with the first interview and continuing into the second interview, Trooper Hayes threatened the Defendant several times with the use of a wave metaphor. During the first interview, Trooper Hayes said to the Defendant,

. . . Here is the thing is this is a wave that is coming at you whether you like it or not . . . you know what I'm saying, it's coming at you, alright brother and the only thing I can tell you is that if you want to give me push back, it's gonna hit you hard, okay, it's gonna hit you real hard but if you cooperate it could be a lesser of a wave that is gonna hit you, okay.

Trooper Hayes continued to reference the wave metaphor in the first interview.

In the second interview, within just about a minute of the audio recording starting, Trooper Hayes went back to the wave metaphor stating to the Defendant, "Here is the deal, I talked to you before, okay, I wasn't bsing you, okay, I told you that you had this huge wave coming at you, that was either going to hit you . . . like a tsunami or going to hit you with a splash, okay" and then Trooper Hayes started to talk about his contact with the district attorneys in Palmer and Anchorage. Just a few minutes later, Trooper Hayes went back to the wave metaphor when he stated to the Defendant, "Now, this is the part where it becomes a splash or it becomes a tsunami. Okay? So, I'm going to throw the ball back to you. I'm going to say, tell me what you know, tell me all the players. You have your whole life ahead of you. Okay." Trooper Hayes continued, "You're 22. You will recover from this. But if you motherfuck me and I walk out of this place, you will be doing a lot of time and there is nothing I'm gonna do for you . . ."

During this second interview, there was a several minute break after about 37 minutes of the

interview. A few minutes after the break, Trooper Hayes then once again referenced his wave metaphor, but without specifically using the word “wave.” Trooper Hayes stated:

Shy, this goes back to what we were talking before when we were here last time, remember I warned you . . . I want you to be honest with me, because there is nothing I can do with you with the DA, telling them that you are cooperating with us . . . we pull this information out of you, you have to be, what we are getting out of you is the truth, the whole truth, and nothing but the truth.

The other trooper present during this second interview, Trooper Wegrzyn said, “That’s basically where we are at.” Trooper Hayes continued:

So that’s where we are at right now, and so he is absolutely correct, we need the truth from you, okay . . . it seems like you are giving us stuff, but you are giving us a little bit at a time as we are going around and . . . you are 22 . . . I don’t want to see you sit in jail for the rest of your life . . .

Over the next roughly fifteen minutes, the Defendant continued to add more incriminating information to his statements and then he began to confess to being the shooter.

It is important to note that though the Defendant’s confession to being the shooter came near the end of the second interview several minutes after the previous wave metaphor and even after a several minute break, Trooper Hayes essentially reactivated the threat six minutes after the break concluded. Trooper Hayes’ reference to “Shy, this goes back to what we were talking before when we were here last time . . .” can only be construed as referencing his earlier wave threats. Furthermore, time between the wave threats and his eventual confession near the end of second interview of being the shooter does not vitiate the impact of the Trooper Hayes’ threats where here the threats obviously had an impact throughout the second interview given that over the course of the second interview, the Defendant made statements which were more and more

incriminating in nature as the interview proceeded.¹⁰

Conclusion

Based upon this court's review of the issue upon remand from the Alaska Court of Appeals, this Court finds that there is lack of evidence affirmatively indicating the Defendant's will was not overcome in the second interview when the Defendant made his confessions. THEREFORE, the Defendant's CONFESSIONS IN THE SECOND INTERVIEW ARE HEREBY SUPPRESSED as a consequence of the threats Trooper Hayes made to the Defendant. This Court will transmit this Order to the Alaska Court of Appeals and will await further direction,

<u>Certificate of Service:</u> I certify that on <u>2/7/22</u>	
a copy of this document was sent to the following at the address(es)	
of record:	PD
	DA
	K Deimon
Clerk	<u>KGH</u>

DATED at Palmer, Alaska, this 7th day of February, 2022.



Kari Kristiansen
Superior Court

¹⁰ Of note is the following quote from *Beavers v. State*, where the Alaska Supreme Court when referring to other jurisdictions where the issue of threats had been dealt with during an interview discussed the following case:

In *State v. Strayhand*, a theft and robbery suspect was arrested and interrogated at the police station. The interviewing detectives repeatedly threatened Strayhand with enhanced punishment for failure to cooperate with the investigation, warning him that they would ask for "a lot of jail time," would "hang him in court," and would "have it made" after informing the judge of his refusal to confess. During a subsequent interview later that day, Strayhand admitted his guilt and was eventually convicted at trial. The Arizona Court of Appeals reversed Strayhand's conviction, holding his confession involuntary due to the detectives' threats of harsher treatment.

Beavers v. State, 998 P.2d 1040, 1048 (Alaska 2000) (citing to *State v. Strayhand* 911 P.2d 577, 581-82 (Arizona App.1995)) (internal citations omitted). This is an example of where time alone between threat and confession will not vitiate the impact of a threat.